

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA – WHEELING DIVISION**

MOUNDSVILLE WATER BOARD,

C.A. No.: 5:09-CV-00113

Plaintiff,

The Honorable Frederick P. Stamp, Jr.

v.

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SHOOK, INC. HEAVY &
ENVIRONMENTAL DIVISION, LIBERTY
MUTUAL INSURANCE COMPANY and
GLEN P. CROUSE,

Defendants.

**MOTION FOR EXTENSION OF TIME TO FILE BRIEF IN SUPPORT OF
MOTION TO DISMISS OR STAY**

NOW COMES Defendant, Liberty Mutual Insurance Company (“Liberty Mutual”), by and through its undersigned counsel, Avrum Levicoff, Esquire and Levicoff, Silko & Deemer, P.C., and moves the Court for an extension of time to file a Brief in Support of Defendant Liberty Mutual’s Motion to Dismiss or Stay, for the reasons hereinafter set forth:

1. This is a contract action in which Plaintiff asserts six causes of action against three defendants including: Breach of Contract (Count I), Breach of Duty of Good Faith and Fair Dealing (Count II) and Unjust Enrichment/Quantum Meruit (Count III) against Defendant Shook; Breach of Performance Bond (Count IV) against both Liberty Mutual and Crouse and for Breach of the Duty of Good Faith and Fair Dealing (Count V); and Violation of the West Virginia Unfair Trade Practices Act (Count VI) against only Defendant Liberty Mutual.

2. This case was removed from The Circuit Court of Marshall County, West Virginia to this Court under 28 U.S.C. §1446, based upon an asserted complete diversity of citizenship, as more fully set forth in the Notice of Removal filed with this Court.

3. The removal of the case from state court, in and of itself, presents intricate questions of federal removal jurisdiction. The defendants anticipate the possibility of a motion to remand, and extensive briefing in connection therewith.

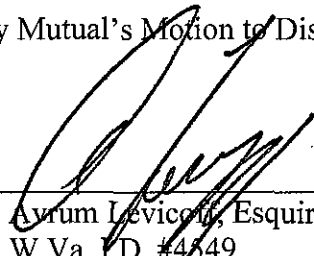
4. In addition, the Complaint presents a number of legal issues which raise substantial questions regarding whether the allegations of the Complaint are sufficient to support the various causes of action alleged.

5. Accordingly, Defendant Liberty Mutual has filed a Motion to Dismiss or Stay under Rule 12(b)(6), F.R.C.P. with respect to the claims against it. Because of the anticipated challenge to federal removal jurisdiction and the necessity of briefing an extensive motion to dismiss, Liberty Mutual requests an extension of time to prepare its Brief in Support of the Motion to Dismiss or Stay.

6. Under the circumstances, counsel for Liberty Mutual would submit that an extension of 30 days here from would be sufficient, appropriate and would not prejudice the Plaintiff or impair the orderly progression of the case.

WHEREFORE, Defendant Liberty Mutual requests an extension of 30 days here from within which to file its Motion in Support of Liberty Mutual's Motion to Dismiss or Stay.

By: _____


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CERTIFICATE OF SERVICE

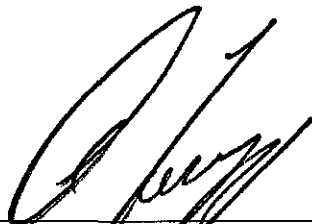
I hereby certify that on October 16, 2009, I electronically filed the foregoing MOTION FOR EXTENSION OF TIME TO FILE BRIEF IN SUPPORT OF MOTION TO DISMISS OR STAY with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

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